**4. BUDGETARY REVIEW AND RECOMMENDATION REPORT OF THE PORTFOLIO COMMITTEE ON MINERAL RESOURCES AND ENERGY (VOTE 29) DATED 22 OCTOBER 2019**

The Portfolio Committee on Mineral Resources and Energy, having considered the performance and submission to National Treasury for the medium term period of the Department of Mineral Resources reports as follows:

1. **Introduction** 
   1. **Mandate of Committee**

In terms of the Constitution of the Republic of South Africa, 1996 (the Constitution), Portfolio Committees have a mandate to legislate, conduct oversight over the Executive and facilitate public participation. The Portfolio Committee on Mineral Resources mandate is governed by Parliament’s mission and vision statements, the rules of Parliament and its Constitutional obligations.

The mission of the Portfolio Committee is to contribute to the realisation of a developmental state and ensure effective service delivery through discharging its responsibility as a Portfolio Committee of Parliament. Its vision includes enhancing and developing the capacity of Committee Members in the exercise of effective oversight over the Executive Authority. One of the Committee’s core objectives is to oversee, scrutinise and influence the action of the Executive and its agencies. This implies holding the Executive and related entities accountable through oversight of objectives of its programmes, scrutinising its budget and expenditure (annually), and recommending through Parliament actions it should take in order to attain its strategic goals and contribute to service delivery.

The stakeholders in the mining sector confront a highly challenged industry. The necessity for transformation away from the discriminatory past is made much more difficult by the volatility commodity prices, fluctuating export markets, expensive electrical energy and deep mines where the ‘zero harm’ principle is costly and elusive.

The labour market is unsettled by job insecurity arising from the reactions to the threats of mine shaft closures from the mining companies (e.g. Sibanye Platinum). Recent announcements on looming job losses at Marikana Platinum mines estimated at 5 270 by Sibanye is testament to instability in the job market within the mining industry. The industry also need to find ways of dealing with challenges of the fourth industrial revolution, which will require a comprehensive and integrated response, in dealing with further job losses as mining houses continue to mechanise at a rapid pace in order to remain competitive. Government needs to support the industry through this demanding adjustment process, this will be difficult given the shrinking fiscal space currently facing the fiscus.

* 1. **The Mandate of the Department, and its five entities**

**The Department**

The aim of the Department of Mineral Resources (DMR) is to “Promote and regulate the minerals and mining sector for transformation, growth, development” and to “Ensure that all South Africans derive sustainable benefits from the country’s mineral wealth.”

The mining industry employed 453 534 people in 2018, a reduction from 509 909 five years ago in 2013, net job loss in 2018 in the industry was estimated by the Minerals Council to be 11 217.

Further severe job losses are an ongoing threat, as the industry faces variable commodity prices, mounting costs and logistics issues. The minerals sector is a key contributor to the South African economy contributing about 7 percent to the Gross Value Added of the country. It is also responsible for more than a quarter of South Africa’s earnings from exports and is critical to the ability of the economy to earn foreign exchange. The good stewardship of the DMR over the minerals sector is of exceptional importance.

The strategic outcome-oriented goals of the Department were revised in 2014 as follows:

**STRATEGIC GOAL I**  **Increased investment in the minerals, mining and petroleum sectors.**

Promote and facilitate an increase in minerals, mining and petroleum activity including value addition to mineral resources extracted in the Republic of South Africa.

**STRATEGIC GOAL 2** **Transformed minerals sector.**

Implement transformation policies to redress past imbalances through broader participation in the mineral sector.

Provide a framework to manage health and safety risks, enforce compliance and promote best practice in the mineral sector.

**STRATEGIC GOAL 3**  **Equitable and sustainable benefit from mineral resources.**

Promote sustainable resource management; contribute to skills development and the creation of sustainable jobs.

Contribute to the reduction of adverse impacts of mining on the environment.

**STRATEGIC GOAL 4**  **Efficient, effective and development-oriented department.**

Optimize internal processes.

Attract, develop and retain appropriate skills and ensure optimal utilization of resources

Implement risk management strategies and promoting corporate governance.

In framing the revised set of goals in 2014, the DMR took account of the National Development Plan (NDP) and the priorities outlined in the Medium Term Strategic Framework (MTSF). MTSF, contain outcome 4 (decent employment through inclusive growth), outcome 6 (an efficient, competitive and responsive economic infrastructure network) and outcome 10 (protect and enhance our environmental assets and natural resources).

The goals of the Department are supported by five entities:

**Mintek**

The Council for Mineral Technology Research (MINTEK), also a science council, is mandated to provide research, development and technology that foster the development of businesses in the mineral and mineral products industries.

**Mine Health and Safety Council**

The Mine Health and Safety Council (MHSC) provides a research and advisory function to the Minister in terms of mine health and safety, as well as promoting a culture of health and safety in the mining industry.

**State Diamond Trader**

The State Diamond Trader (SDT) promotes equitable access to, and beneficiation of, diamond resources, addresses distortions in the diamond industry and corrects historical market failures to develop and grow South Africa’s diamond cutting and polishing industry.

**South African Diamond and Precious Metals Regulator**

The South African Diamond and Precious Metals Regulator (SADPMR) regulate business development and trade in diamonds, platinum and gold.

* 1. **Purpose of the BRR Report**

Section 77(3) of the Constitution stipulates that an Act of Parliament must provide for a procedure to amend money bills before Parliament. This constitutional provision gave birth to the Money Bills Amendment Procedure and Related Matters Act, No. 9 of 2009 (the Act), which sets out the process that allows Parliament to make recommendations to the Minister of Finance to amend the budget of a national department.

*Section 5 of the Act, states that the National Assembly, through its Committees, must annually assess the performance of each national department with reference to the following:*

* The medium term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as tabled in the National Assembly with the national budget;
* Prevailing strategic plans;
* The expenditure report relating to such department published by the National Treasury in terms of section 32 reports of the Public Finance Management Act, No 1 of 1999 (PFMA), as amended in 2009;
* The financial statements and annual report of such department;
* The report of the Committee on Public Accounts relating to the department; and
* Any other information requested by or presented to a House or Parliament.

Committees must submit the Budgetary Review and Recommendation Report (BRRR) annually to the National Assembly. The BRRR assesses the effectiveness and efficiency of a department’s use and forward allocation of available resources and may include recommendation on the use of resources in the medium term.

Committees must submit the BRRR after the adoption of the budget and before the adoption of the reports on the Medium Term Budget Policy Statement (MTBPS) by the respective Houses in November of each year.

The Act therefore makes it obligatory for Parliament to assess the Department’s budgetary needs and shortfalls vis-à-vis the Department’s operational efficiency and performance. This is done taking into consideration the fact that the Department has oversight responsibilities over five entities.

* 1. **Method followed by the Committee in writing the BRR Report**

On May 29, in 2019, the President of South Africa, President Cyril Ramaphosa announced a reconfigured executive, which merged the former Department of Mineral Resources with that of the Department of Energy, giving birth to a new Department known as the Department of Mineral Resources and Energy (DMRE), hence even though the two respective Departments are still reporting as separate entities, going forward both Departments will be reporting as a single entity to the Portfolio Committee of Minerals and Energy (PCMRE), the merger is expected to be finalised by March 2020. DMRE (Vote 29) will be used to refer to the former Mineral Resource component of the new Department.

The Committee has scrutinised and interrogated all available documents as outlined in Section 5 of the Act. The Committee has assessed the performance of the Department in the 2018/19 financial year, as well as performance in the first quarter of the 2019/20 financial year where information was available.

The Portfolio Committee on Mineral Resources held a meeting on the 2018/2019 Annual Report of the Department of Mineral Resources and its entities on the 8th , 9th and 10 of October 2019, which was addressed by the senior leadership of the DMRE.

The office of the Auditor General gave input during the budget review and recommendation report process. Moreover, the Committee undertook visits to the Department’s entities in Gauteng Province, to look at issues pertaining to the role played by the Department of Mineral Resources and Energy in regulating the mining industry in areas such as community consultation, the environment, illegal mining and mine health and safety.

The Committee, in undertaking this process, used a number of source documents, including the 2014-2019 Strategic Plan of the DMRE, Annual Performance Plans, Annual Reports, Financial Statements, 2018/19 and the 2018 Estimates of the National Expenditure (ENE). It also reviewed briefings by the Department and its entities during the course of the year, as well as the State of the Nation Address. The Committee also used the Constitution as a reference point.

* 1. **Outline of the contents of the Report.**
* An overview and analysis of the Department’s strategic priorities and measurable objectives;
* An assessment of the overall financial performance for 2018/19 and the first quarter of 2019/20;
* An assessment of the overall service delivery performance for 2018/19 and the first quarter of 2019/20;
* Consideration of the Auditor-General’s findings in relation to the Department;
* Consideration of oversight reports and other engagements held with the Department;
* Committee observations on overall performance of the Department; and
* Recommendations.

1. **Overview of the key relevant policy focus areas**

**Key priorities identified for the 2018/19 Financial Year**

The DMR’s priorities for 2018/19 were set out in the 2014/19 Strategic Plan and Annual Performance Plan 2017/18.

At the highest level, the priority is to align the activities of the Department with the vision of the National Development Plan (NDP) through the implementation of the New Growth Path (NGP), the Industrial Policy Action Plan (IPAP) and the National Infrastructure Plan.

The aim, in the light of the NDP, is “to create a globally competitive mining industry that reflects a non-racial South Africa and draws on the human and financial resources of, and offers real benefit to, all South Africans by stimulating local economic development”.

In the period to 2019, the Department’s planned policy initiatives are to:

* Review the Minerals and Petroleum Resources Development Act (MPRDA), including its regulations.
* Review and amend the Precious Metals Act.
* Review and amend the Diamond Act.
* Review the Mine Health and Safety Act, including its regulations.
* Develop the Geoscience Amendment Act Regulations.
* Ensure compliance with the Broad-based Socio-economic Empowerment Charter, 2005, as amended.
* Conduct the regulatory impact assessment of identified legislation.
* Review and implement the Broad-based Socio-economic Empowerment Charter and update the scorecard with a detailed explanatory memorandum.
* Review the Mineral Technology Act (Act No. 30 of 1989).

Two additional policy priorities have since been added to the list presented in the strategic plan 2014-2019. These are the “legislative establishment of the AEMFC” (the state owned mining company – also called MinCoSA) and the development of “the PASA Bill”. The Petroleum Agency of South Africa is the agency designated in the MPRDA to regulate the oil and gas sector.

**3. OVERALL PERFORMANCE AND ACHIEVEMENTS for 2018/19**

The achievements of the DMRE (Vote 29) for the 2018/19 financial year include:

* The achievement of a **clean audit** following an unqualified audit opinion (with findings) from the Auditor General of South Africa (AGSA) during the previous financial year. This signifies that the financial and performance issues raised in the qualified audit report in the last financial year ago (2017/18) have been successfully addressed by the DMRE (Vote 29).
* The annual report indicates that the Department **met 84 per cent of its performance targets**. This continues a trend of commendable management performance, far better than most government departments.
* Fraser Institute latest ranking of South Africa among mining jurisdictions places South Africa at 56 among 83 countries surveyed in terms of investment attractiveness, resulting in a 25 place overall ranking improvement from 81 in 2017
* There was a noticeable improvement in the mining fatalities statistics during 2018, with 81 fatalities being recorded during the period, reflecting a 19 percent improvement on the fatalities recorded in 2017. The number of injuries reported fell by 10 percent and there was also an encouraging reduction in the number of occupational diseases reported. Seismic and fall of ground accidents continue to contribute a highest proportion to mining accidents.
* The Department has also managed to develop, review and gazetted the Department’s Environmental Management Plan during the financial year under review, as stipulated in the National Environment Management Act (NEMA).
* Mining investments in the country totalled over R45 billion, resulting in the creation of about 4 000 jobs.
* The Department issued 169 closure certificates during this financial year, where rehabilitation of the environment was completed according to the standards set out in NEMA and according to the approved environmental authorisations. In cases where non-compliance was identified, section 93 orders were issued.
* The Department overachieved on its target of 120 rights and permits granted and/or issued to HDSA-controlled entities, granting 183 in the period under review due to proactive support given to these applicants in the acquisition of rights and permits while ensuring compliance to relevant legislation including NEMA.
* The Department overachieved on its target for consultations/engagements and conflict management with communities/ stakeholder and the mining industry, conducting 527 of these against a target of 150. This was due to proactive conflict management, and consultations on the changes to the Mining Charter.

Note on Overall performance of the DMR

Despite the significantly improved operational and financial improvement in the Department’s performance during the review period, there is still a concern regarding the performance of the Mineral Regulation programme which achieved a score of 70 percent, making it the least effective programme of the Department in terms of performance. Issues negatively affecting performance of the above programme range from capacity constraints to the residual effect of the Mpumalanga regional office closure. The above issue warrants special attention from the Department, in order to ensure that the Mineral Regulation branch functions optimally as to be able to fulfil its mandate optimally and deliver to the industry stakeholders in an efficient and timeous manner.

National Treasury advises that Annual Reports should be evaluated strictly against undertakings made to Parliament in Annual Performance Plans and Strategic Plans. That is the approach taken forward in this analysis brief.

However, the almost stellar achievement against management performance measures has to be balanced against the many challenges that confront the Department in its regulation of the mining sector. The following issues listed below continue to present risks to continued exceptional performance of the Department.

* **MPRDA Amendment Bill**: although the Minister’s supports the withdrawal of the MPRDA Amendment Bill, it still has to be formally withdrawn by Parliament.
* **Mining Charter III**: the publication of the final version of the new Mining Charter in September last year provided regulatory certainty but the Minerals Council’s subsequent court application to set aside certain provisions of the Charter might necessitate further discussions with relevant stakeholders.
* **Exploration and greenfield projects**: initiatives aimed at attracting investment into exploration and greenfield projects are critical if South Africa’s mining sector is to be regarded as a sunrise industry’.
* **Corruption and mal-administration**: The Minister has made significant progress in this regard but further work is required in order to ensure an administration that is efficient, transparent and accountable.

1. **PROGRAMME PERFORMANCE**

The DMR APP specified 98 measures by which to assess the performance of the Department in the 2018/19 period.

**84 per cent of the measures were achieved** i.e. 82 out of 98 set targets. This is an improvement on the score of 81 per cent achieved the previous year. The DMRE has been consistent in meeting an acceptable proportion of performance targets every year.

Comparability with past results is limited by the fact that the DMRE (Vote 29) reduced the number of targets by over 50 in 2014/15 from 160 targets or more in the past reporting periods and the content of some indicators have been altered.

The 84 per cent level of achievement for performance targets is commendable. The DMRE (Vote 29) consistently achieves its targets at rates far above the reports of most government departments.

The average result in 2018/19 was however, weighed down by the underperformance of the Mineral Regulation programme relative to other three programmes.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Table 4.1: Summary of 2018/19 Performance Measures** | | | |  |  |
|  | Programme | Total count of measures per programme | **Achieved** | **Not achieved** |  | *Achievement comparison with 2017/18* |
| 1 | Administration | 27 (100%) | 24 (91%) | 3 (8%) |  | 86% |
| 2 | Promotion of Mine Safety and Health | 21 (100%) | 18 (85%) | 3 (15%) |  | 90% |
| 3 | Mineral Regulation | 27 (100%) | 19 (70%) | 8 (30%) |  | 59% |
| 4 | Mineral Policy and Promotion | 23 (100%) | 20 (86%) | 3 (14%) |  | 87% |
|  | **Total all Programmes 2017/17** | **98 (100%)** | **84 (85%)** | **15 (15%)** |  | 81% |
|  | Number of indicators used | 98 |  |  |  | 91 |

**4.1. Programme 1: Administration (Corporate Services and Financial Administration)**

The purpose of this programme is to enable the Department to deliver on its mandate by providing strategic support management services and administrative support to the Ministry and the DMR.

The DMR achieved 91 percent of the performance measures set for Programme 1 (24 measures achieved out of 27). This is an improvement from 86 percent in 2017/18.

The Department was able to keep the vacancy rate at 8 percent (the DPSA has a 10 percent threshold) contributing to this achievement was the general reduction of headcount as a result of shrinking budget allocation to the Department, non-critical posts were eliminated from the structure, going forward the Department plan to focus on mainly filling critical vacancies. Under the sub programme of financial administration, the Department only missed two performance targets, namely percentage achievement of service level agreement, and customer satisfaction index. The reasons for partial achievements on the above were listed as limited resources in the helpdesk and lack of resources in the helpdesk respectively.

**4.2. Programme 2: Mine Health and Safety Promotion**

The purpose of the Promotion of Mine Safety and Health programme is “to ensure the safe mining of minerals under healthy mining conditions”

The DMRE (Vote 29) achieved 85 percent of the performance measures set for Programme 2 (18 out of 21). This marks a 5 percent deterioration compared with 2017/18 where 90 percent of targets were met, which coincided with an overall deterioration of safety performance.

The main driver behind the two targets that were not met in the programme, namely percentage reduction in fatalities as well as occupational injuries, was the increase in fall of ground accidents, fires and heat related accidents. It is important to also note that the above performance measurements are not within the direct control of the inspectorate and are thus questionable as performance indicators for the MHSI.

It is also critical to contrast the above score with the overall improved safety performance of the programme, as there was a 30 percent reduction in the number of occupational diseases recorded in the mining sector as well as the 19 percent reduction on fatalities, which fell from 90 during the previous financial year to 81. Lastly the Department contributed to skills development by issuing 264 Government Competency Certificates (GCC).

There has also been a significant decrease in the complaints by the industry regarding the application of Section 54 and Section 55 instructions, which have been a source of major controversy in the previous years. During the Mine Health and safety summit held in October 2018, hosted by the Mine Health and Safety Inspectorate, two directives were given to all mines: The first one was that mines should endeavour to eliminate fire, heat and oxygen deficiency related accidents, especially when individuals gain access to abandoned or old mined out areas underground at a mine, secondly to eliminate rock burst and rock fall related accidents, specifically with pillar extraction. The above directives are important given the disproportionate contribution of fall of ground and rock fall incidents to the overall mine fatality and injury statistic.

**4.3. Programme 3: Mineral Regulation**

The purpose of the Mineral Regulation Programme is to “regulate the minerals and mining sector to achieve transformation and sustainable development”

The DMRE (Vote 29) achieved 70 percent (19 out of 27) of the performance measures set for Programme 3. This is an improvement from 2017/18 when 59 percent of performance measures that were achieved. The following performance targets for Programme 3 (Mineral Regulation) were either partially or not achieved as listed on Table 3.2. Office closure of the Mpumalanga Regional office contributed about a third to the total of performance targets that were not achieved (Table 4.3.1 number 1 and 7) by the Department. The above issue warrants special attention from the Department, in order to ensure that the Mineral Regulation branch functions optimally as to be able to fulfil its mandate optimally and deliver to the industry stakeholders in an efficient and timeous manner.

**Table 4.3.1**

Programme 3 Performance Measures not Achieved

|  |  |  |  |
| --- | --- | --- | --- |
|  | Objective | Performance Target | Reason |
| **1** | **Promote Job Creation.** | **Number of Social and Labour Plans (SLP) development projects completed.** | **Office closure in Mpumalanga. Inspections in some of the regional offices were not conducted as resources were directed to assist in resolving the Mpumalanga backlog. Inspections have been deferred to quarter one of 2019/20 financial year.** |
| **2** | **Promote Job Creation.** | **Percentage of approved SLPs published.** | **Delays in finalizing Mining Charter three modalities on how mining companies should comply with publications (regulations).** |
| **3** | **Promote Job Creation.** | **Number of jobs created through mining.** | **Prevailing economic conditions. The Department will continue to engage with the mining industry on the job saving declaration signed with all relevant stakeholders.** |
| **4** | **Reduce State Environmental Liability and Financial Risk.** | **Percentage of complaints closed versus received.** | **The Chief Directorate (Enforcement) received more complaints, some complaints were carried over from the previous years. The Chief Directorate will speed up investigations of complaints received within 30-day time frame.** |
| **5** | **Reduce State Environmental Liability and Financial Risk.** | **Percentage of complaints received versus inspected.** | **Complaints received during the last quarter that could not be attended to. These complaints will be attended to in Quarter one of 2019/20.** |
| **6** | **Implement Transformation Policies/ Legislation.** | **Percentage compliance by the mining industry.** | **Delays in proving an aggregated result of the inspection outcomes** |
| **7** | **Monitor and Enforce Compliance.** | **Number of Mine Work Programme/Prospecting Work Programme inspections conducted.** | **Closure of some regional offices during the year, resulting deferment to Quarter one of 2019/20.** |
| **8** | **Monitor and Enforce Compliance.** | **Percentage adherence to timeframe committed to the Department of Performance Management and Evaluation (DPME).** | **Current backlog of applications that are serving before the licensing committee.** |

Programme 3 (Mineral Regulation) is at the heart of the Department’s mandate to develop and transform the industry, hence it is crucial that any bottlenecks that are encountered are urgently addressed.

Some of the reasons for non-performance cannot be attributed to the Department’s inability to fulfil its mandate, for example the issue of the weak economic environment, however other reasons given seem to indicate a lack of capacity for example the case of applications backlog, (see No 4 and 8 of Table 4.3.1).

**4.4. Programme 4: Mineral Policy and Promotion**

The purpose of the Mineral Policy and Promotion programme is to “formulate mineral related policies and promote the mining and minerals industry of South Africa to make it attractive to investors.”

The DMR achieved 86 percent of the performance measures reported on for Programme 4 (20 out of 23) in 2018/19. This high rate is consistent to performance rate of 85 percent achieved in 2016/17.

Only three performance indicators under the Mineral Policy and Promotion programme were not achieved, the first one is the percentage implementation of shale gas action plan instruments, only 33 percent was achieved against a target of 67 percent. The under achievement was a result of the inability to hold meetings due to delays in the Hydraulic Fracturing Monitoring Committee. The second one is the number of derelict and ownerless sites rehabilitated, where only 20 out of 45 mining sites were rehabilitated, however the Department did not disclose the reason for underperformance in its annual report. The third performance measure where the component of the programme in question underperformed was the implementation of risk management plans, the performance achievement was only 46 against a target of 54 percent.

The three performance targets that were not achieved under programme four should not take attention away from the fact that the programme has performed reasonably well during the period under review, which is a continuation of an excellent consistent performance track record during the last three financial years.

The following reports on mine closure and management of derelict and ownerless mines were produced by the Mineral Policy and policy branch:

* ***The National Mine Closure Strategy***, which gives recommendations on how to approach mine closures. The report takes into cognisance vertical and lateral linkages of current or past mining activities while also evaluating post mining land use.
* ***The integrated Rehabilitation Monitoring Strategy*** which aims to assess activities and level of environmental pollution within a 10 Km radius of derelict and ownerless asbestos mines.
* ***The Valuation of Rehabilitation Liability*** (Derelict Asbestos Mines) Strategy gives an indication of the state’s contingent liability with regard to derelict and ownerless asbestos mines.

The following reports were also produced as mine environmental tools

***Ocean and Coastal Mining***, the report looks at ways of using primary seabed data to expand knowledge of underwater heritage resources and strengthening the confidence with which the impacts of offshore mining on heritage resources are predicted, and how this can be used as an environmental assessment tool.

***Coexistence of mining and the environment***, the report looks at the use of biophysical data and pollution vulnerability maps, to show areas that are especially susceptible to pollution.

Mineral Policy and Promotion is the largest programme of the Department It absorbs about half of the budget of the DMRE (Vote 29) and includes transfers to Mintek and the Council for Geoscience. The Programme encompasses the DMR’s strategies to address the huge problems caused by ownerless and derelict mines and mine dumps. The estimated cost to government of rehabilitation is considerable, the current pace of rehabilitation is unlikely to make a material impact to the scope of rehabilitation in the medium term.

**5. REPORT OF THE AUDITOR-GENERAL**

The Auditor General of South African appeared before the Committee on the 08 October 2019.

The DMR financial statements received a clean audit in 2018/19. This is a notable improvement on the unqualified audit opinion (with findings) in the previous financial year. The Department has now fully dealt with the concerns and criticisms raised in the unqualified audit opinion during the previous year.

The Auditor General found there were no material misstatements in the submitted financial statements. As a result, the financial statements received an unqualified audit opinion without findings, also referred to as a clean audit.

There were also no material misstatements in the reported performance information (as set out in pages 21 to 53 of the Annual Report).

There are five entities reporting to the Department of Minerals Recourses (DMR) namely, the Council for Geoscience (CGS), Mine Health and Safety Council (MHSC), Mintek, South African Diamond and Precious Metal Regulator (SADPMR) and the State Diamond Trader (SDT). According to the Auditor General report, the Department of Mineral Resources and the Council for Geoscience obtained a clean audit, this reflect an improvement on the operational and financial performance of both the Department (DMR) and the entity (CGS) given the fact that the last time the Department obtained a clean audit was during the 2016/17 financial year (2017/18 audit outcome for the DMR was unqualified audit with findings).

With regard to the CGS performance the entity has not received a clean audit during the last five financial years, hence its current achievement (clean audit) represent a great improvement in its financial and operational governance practices. On the other hand, Mintek has been a permanent feature in the attainment of a clean audit, having been consistently receiving a clean audit from the 2014/15 financial year until the previous financial year. The audit outcome for Mintek during the financial year under review has been the unqualified audit with findings, which represent a regression, according to the Auditor General report this was due to the quality of financial statements submitted for audit. Hence it will be important for the Committee to ensure that there are no systematic (e.g. capacity constraints, high turnover rate for employees in the finance division) issues in the entity that are causing the above underperformance.

Mine Health and Safety Council has also regressed with regards to its audit outcomes, having achieved a clean audit during the previous two financial years, during the period under review the entity obtained an unqualified audit with findings, this was due to non-compliance with legislation. It will be important for the Committee to interrogate the reasons for the non-compliance with legislation by the entity, and for the entity to explain to the Committee how this will be prevented in the future. Noncompliance with legislation is more serious for an organization that is supposed to enforce Health and Safety legislation across the industry in the country.

The last time the State Diamond Trader and the South African Diamond and Precious Metal Regulator received clean audits was two and three financial years ago respectively, hence no improvement is evident in the financial performance of the entities during the period under review. Hence the Department has to work closely with the two entities to ensure that systems are in place to improve performance and ensure improved audit outcomes.

1. **SUMMARY AND ANALYSIS OF ANNUAL FINANCIAL STATEMENTS**

**The following can be observed from the financial statements:**

The DMR customarily spends its entire budget each year. This full spending of budgets, across all programmes has been described by the Financial and Fiscal commission (FFC) as an indicator of fiscal discipline. In its last analysis of the spending profile of the DMR, the FFC found that “the Department has an efficient cash flow system in place and spending disbursements to public entities are well planned to smooth out cash outflows during the year.”

The **Department’s entities and agencies** have all obtained unqualified audits since 2011/12. These are the Council for Minerals Technology (Mintek), the Council for Geoscience, the Mine Health and Safety Council, the South African Diamond and Precious Metals Regulator and the State Diamond Trader. The entities are spending efficiently and effectively and meeting goals and objectives. The FFC has found that the Department plays an effective monitoring role over the entities and agencies.

**Table 6.1 DMR Budget and Expenditure Allocation 2018/2019 Comparative Table**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 2018/2019 | | | | 2017/2018 | | | |
| Programme | Final Appropriation | Actual Expenditure | (Over) Under expenditure | Proportion of Total (%) | Final Appropriation | Actual Expenditure | (Over) Under expenditure | Proportion of Total |
| Administration | **361 649** | **354 470** | **7 179** | **18,8** | **362 906** | **362 470** | **436** | **20,3** |
| Mine Health and Safety | **209 053** | **208 477** | **576** | **11** | **203 867** | **203 657** | **30** | **11,5** |
| Mineral Regulation | **389 207** | **388 775** | **502** | **20,6** | **370 392** | **370 104** | **288** | **20,8** |
| Mineral Policy and Promotion | **930 682** | **928 401** | **2 281** | **49.4** | **842 464** | **842 464** | **2010** | **47.4** |
| Total | ***1 890 661*** | ***1 880 123*** | ***10 538*** |  | ***1 779 449*** | ***1 776 685*** | ***2 764*** |  |

The Department had a total budget allocation of R 1 890,66 billion in 2018/19, the Administration Programme (Programme 1) accounted for about 19 percent (18,8%) of the total budget which is slightly less than the 2017/18 allocation of 20,3 percent for the same programme. Mine Health and Safety programme (Programme 2) accounted for 11 percent of total Departmental expenditure for the financial year under review, which is consistent with the previous financial year allocation.

Expenditure on Mineral Regulation Programme (Programme 3) also remained consistent at 20 percent of the total budget between the two subsequent financial years. Expenditure proportion by the Mineral Policy and Promotion Programme (Programme 4) increased by two percent from 47,4 percent during 2017/18 to 49,4 percent in the 2018/19 financial year, which means that Mineral Policy and Promotion programme not only has the biggest claim on the DMR budget, however it also had the highest acceleration in terms of its expenditure claim on the total budget of the Department. On the budget of R 1.890 billion there was an underspending of R 10, 5 million, which was due to vacant positions that were not filled.

**6.2 First Quarter Expenditure Performance during the 2019/20 Financial year:**

During the first quarter of the current financial year expenditure incurred by the Department was R 586 million against a projected spending of R 568, 5 (the total allocated budget for the current financial year is R 2 billion). Quarterly spending was 3.2 percent (R 18,3 million) higher than the projected spending, this was due spending on office accommodation which was inadequately catered for. No virement was reported during the period under review and treasury did not flag any issues deserving the attention of the Committee.

The issue of the above overspending deserves further scrutiny as it is not clear how the under provision for accommodation arose. The Department must explain to the Committee whether underestimation for accommodation occurred as a result of inadequate costing, expenditure misallocation or any other relevant circumstance.

**Table 6.2 Comparison appropriations for the DMR entities 2018/19**

|  |  |  |
| --- | --- | --- |
| **Name of Entity** | **Amount Transferred (and spent) 2018/19**  *R’000* | **Audit Outcome**  **2018/19** |
| Mintek | R 420 368 | **Unqualified** (was clean in previous year) |
| SA Diamond & Precious Metals Regulator (SADPMR) | R 59 105 | **Unqualified** |
| Mine Health and Safety Council (MHSC) | R 0 | **Unqualified** |
| Council for Geoscience (GCS) | R 405 983 | **Clean** (improvement) |
| The State Diamond Trader (SDT) | N /A | **Unqualified** |

**6.3 State Diamond Trader (SDT)**

The State Diamond Trader wholly owned by the SA government, it is listed as a Schedule 3b public entity as per the Public Finance Management Act, the entity is self-funded and does not receive any appropriation from the Department, its funding is a function of its operating activities, mainly diamond sales and a revolving credit facility from the Independent Development Corporation (IDC). During the year under review the entity incurred a loss R 3,05 million, this is a deterioration of its financial position compared to the previous financial year where it generated a profit of R 7.83. The loss is attributed to the general decline in the market price (value) of diamonds, increasing popularity of synthetic diamond as well as the US China trade war which is negatively affecting Chinese demand for luxury goods.

**6.4 South African Diamond and Precious Metal Regulator (SADPMR).**

The South African Diamond and Precious Metal Regulator is partly funded by the state as well as from operations mainly from levies collected. During the period under review the entity had an appropriation of 62.4 million from the Department, from that it was able to generate revenue to of R 113,8 million after adjusting for operating expenses a surplus of R 10, 791 million was realized by the entity, this was an improvement from the previous year performance where a R 7, 104 million surplus was generated. Despite a profitable financial performance, the entity has identified headwinds that may negatively affect its performance going forward, firstly there has been a significant decline in beneficiation activity in the country, furthermore inadequate cash reserves for the entity are complicating the proposed move to new premises (GIDZ) as there are no sufficient funds to finance the relocation which will take place in the first half of 2020.

**6.5 Council for Geoscience (CGS).**

The Council for Geoscience is listed as a Schedule 3A public entity as per the PFMA, during the year under review the entity obtained a clean audit. The entity generated an operating loss of R 1,086 million this is an improvement from the loss incurred in the previous financial year of R 21 million. The entity has reviewed its strategy and structure to optimize the delivery of its mandate, the strategy aim to refocus the organization to its statutory mandate, however the organization require about R 300 million baseline funding investment in order to be able to deliver on its core mandate, the short term funding model adopted by the National Treasury is not compatible with the medium to long term strategy of the CGS, as a geological mapping project is a long term undertaking by its nature, hence it requires long term commitment.

**6.6 MINTEK.**

MINTEK is a schedule 3B entity as per the PFMA, during the year under review the entity obtained an unqualified with findings, this was a reversal of a long-term operational excellence by the organization which has consistently obtained consecutive clean audit for the last five years. The entity recorded a surplus of R 5,4million during the year under review, this is a marginal decline from the previous financial year surplus of R 5,8 million. The organization has carefully examined its structure and operating model, it has recognized that the ratio of core to support staff is not desirable and inconsistent with a mandate of a scientific institution, furthermore the exercise also revealed that the organization will have to be more responsive to the requirements of the industry as articulated by the industry as opposed to product development approach which purport to understand the industry and its needs.

**6.7 Mine Health and Safety Council (MHSC).**

The Mine Health and Safety Council is appointed by the Minister of the DMRE in accordance with provisions of Section 4 of the Mine Health and Safety Act (Act No. 29 of 1996), the council submits its statutory reports to the Minister for approval as legislated by the PFMA. The entity obtained an unqualified audit with findings from the Auditor General during the year under review. During the year under review the Council incurred a deficit of R 22,64 from its operating activities, this was worse than the previous year financial loss of R 11, 76 million. Significant escalation in personnel and travelling costs while research costs moving in the opposite direction have contributed to the negative financial outcome as the entity continue to build its human resources and institutional capacity in order to be able to deliver to improved health and safety outcomes in the industry going forward. However, the Council compared to other entities is in a better position to cope with negative financial performance given the amount of reserves which had been accumulated over the years.

1. **SUMMARY OF PREVIOUS KEY COMMITTEE RECOMMENDATIONS**
   1. **2018/19 BRRR recommendations and responses**

**The Committee made the following recommendations to the Department in the 2018 BRRR Report:**

| **2018 BRRR Recommendations** | **Response** |
| --- | --- |
| The DMR should fully respond to previous BRR Reports recommendations and provide explanation where a response is not available. | **Achieved** |
| The DMR should devise a strategy to deal with the reopening of closed parts of operations, in order to address safety issues associated with unused old shafts becoming operational. | **Achieved.** |
| The DMR should provide the Committee with its legislative agenda between now and the end of the 5th parliament as to enable the committee to finalize its programme for the remainder of the term. | **Achieved** |
| The DMR should make accident enquiry/investigation reports available to the PCMR. | **Pending** |
| The monitoring of the One Environmental System for mining requires a comprehensive annual report that includes a formalised report on the work and challenges of the Environmental Mineral Resource Inspectorate | **Pending** |
| SADPMR urgently needs a full time, permanent CEO and CFO. | **Both post have been filled .** |
| DMR should give the numbers that underlie the calculation of indicators that are expressed as percentages. (This should include the size of the backlogs in processing applications). | **Pending** |
| DMR should present a progress report in February 2019 specifically on the progress with correcting the poor performance of mineral regulation (which was still strongly visible after the 2017/18 year end, in the report of the first quarter of 2018/19). | **Pending** |
| MHSC to produce an expenditure plan detailing how it is going to utilize the surplus. | **Achieved** |
| The DMR should provide the Committee with a full legislative agenda and timetable for the MTEF. | The Committee was briefed on the intend legislative programme for this financial year on 13 September 2019 |
| Treasury should fund the necessary infrastructural upgrade accordingly of the CGS to ensure compliance with its designation as a National key point. | **Declined** |
| Treasury provide additional funding to the DMR to be used in the upgrading of the cadastral system. | **Partially achieved** |
| The DMR should report to the PCMR specifically on what irregular expenditure is condoned during the year and what the reasons are. | **Pending** |
| DMR should involve other departments to perform their respective roles when, for example, CGS assists by providing water as a by-product from their drilling research. This is to ensure the CGS does not get diverted into undertaking the responsibilities that properly belong elsewhere. It also makes the CGS intervention more effective. | **Achieved** |
| The President should not delay further in signing into law the Public Audit Amendment Bill B13-2018 which was passed by Parliament on 23 May 2018 | **Done** |
| The Minister should review the recommendations of this BRRR and give a specific response to the Committee and make commitments on which recommendations will be addressed and on what time frames. | **Achieved** |

**8. 2019/20 Budget Vote Recommendations**

**The Committee made the following recommendations for the 2019/20 financial year, after considering the Annual Performance Plan and the Budget of the DMRE (Vote 29):**

***The Minister of Mineral Resources and Energy:***

* Should report on the comprehensive strategy that will deal with the whole value chain of illegal mining, including artisanal miners.
* Should clarify the stage of its Beneficiation strategy and present it to the Committee in due course.
* Should invest more in publicity drives on the Mining Charter three and its associated benefits to mining employees as well as host communities.
* Should have a balanced approach in financing studies related to mining scarce skills, focus also needs to be given to mine rescue skills.
* Should continue to invest on occupational disease related research in order to drastically reduce the burden of occupational disease in the industry.
* Should produce a timeframe specific legislative program, with a binding time frame.
* Should also invest in mine rescue training over and above issuing of bursaries for rock mechanic and seismicity studies, in order to deal comprehensively with the fatalities and injuries in the industry.
* Should continuously brief the Committee on the challenges on Mine Health and safety issues including fatalities.
* Should explore all possible funding avenues (including approaching Treasury) to speed up the modernization of the SAMRAD database.
* Should continue to facilitate a resolution to the Lily Mine tragedy, and continuously provide progress report to the Portfolio Committee.
* Should present plans on how to mitigate the retrenchments in the mining sector, and plans to increase investment attractiveness.
* Should ensure that the legislative programme is submitted to the Committee by 31 July 2019.
* Should present to the Committee the strategies which are outstanding from the previous financial year’s commitments, namely the Woman in Mining and Coal Strategy etc.
* Should present a plan to the Committee clearly demonstrating how it is going to address the backlog on the MTSF goal for rehabilitation of derelict and ownerless mines.

1. **COMMITTEE OBSERVATIONS**

The Portfolio Committee of Mineral Resources and Energy (Vote 29) having assessed the performance of the Department of Minerals Resources and its five entities made the following findings and observations:

* The DMR and the CGS achieved a clean audit which was an improvement from the previous financial year performance for both organizations.
* Deficiencies in fully complying with supply chain processes, relevant prescribed legislation and internal controls continue to prevent the other four entities reporting to the DMRE (Vote 29) from achieving a clean audit.
* Health and safety performance of the Department has improved arresting a declining trend that has been evident in the last two previous financial years.
* Despite the outstanding performance of the Department in the current financial year, there are still serious issues negatively affecting mining employees and communities especially in Mpumalanga province, that require urgent attention (e.g. Nkomazi Anthracite).
* Mineral regulation programme is struggling to meet its targets, this might be due to budget constraints which negatively affect operational capacity or inability to properly formulate such targets in light of available resources.
* Debtor collection cycle for the Department continue to rise while the creditor payment period falls, which is inconsistent with sound financial management principles.
* Mineral Policy and Promotion programme overachieved with regard to developing small scale miners, this is a positive development.
* Financials of the Mine Health and Safety Council reveal a trend where compensation of employees is rising while research funding is falling.
* Trading activities of the State Diamond Trader (SDT)which are characterized by falling diamond production, increased adoption of synthetic diamonds and the US and China trade war, continue to define the unfavourable operating environment for the entity.
* The new business plan of the SDT require legislative amendments for it to be implementable.
* One of the major challenges of the SADPMR is weak legislation in combating illicit trade in precious metals and diamonds.
* SADPMR board meetings are too frequent (49), this does not contribute to sound corporate governance and threaten financial stability of the organization.
* CGS require a long term financial commitment in order to be able to fulfil its long term mandate, the withdrawal of the MTEF funding for exploration does not assist in this regard.
* The DMRE (Vote 29) has been able to effectively address the issue of an office lease which was a source of a finding during the previous financial year.
* The Committee noted the lack of efficiencies on the functioning of the Samrad system
* Although the department presented its intention on the legislative programme, there is no clear programme that demonstrate clear and definite framework.

1. **RECOMMENDATIONS**

The Committee recommends that the Department of Mineral Resources and Energy.

|  |  |  |
| --- | --- | --- |
| **2019 BRRR Recommendations** | **Motivation for Inclusion** | **Time Frames** |
| The Department must ensure that the culture of organizational and financial governance is adopted and maintained by all the entities reporting to the Department, a plan of action must be produced and executed to ensure clean audits across all entities. | Ensure Financial Sustainability | 3 Months |
| A comprehensive diagnosis of issues underpinning the underperformance of the Mineral Regulation branch be undertaken and an improvement plan implemented to ensure that targets are aligned to available capacity. | Improve Operational Performance | 6 Months |
| Ensure that the health and safety programme is adequately resourced especially research on seismicity in order to progressively reduce the fatality rate in the mining industry. | Improve safety | 6 Months |
| The Department attend to all issues affecting mining communities especially in Mpumalanga and report back to the Committee. | Facilitate Stakeholder Engagement | 6 Months |
| The Department must evaluate its debt collection policy and ensure it is consistent with sound finance management principles (minimize collection period, while maximizing payment cycle). | Enhance Efficiency | 12 Moths |
| The SDT and SADPMR present its proposed legislative amendments to the Committee so they can be considered and processed accordingly. | Facilitate Legislative Agenda | 10 Months |
| SADPMR to consider reducing (schedule) the number of Board meetings held in a cost effective manner. | Enhance Cost Effectiveness | 10 Months |
| Treasury to restore MTEF funding of the CGS in the short term, while securing R300 million baseline funding for the medium to long term in order to ensure that the entity is able to meet its mandate which is long term in nature and scope, including the funding model that accommodate the National Key Point designation of the entity, in order to ensure compliance. | Enhance Financial Sustainability | 6 Months |
| Carefully consider the issue of overlapping mandates between entities during the merger process and provide the Committee with the outcome of the above analysis as well as any applicable legislative proposals. | Enhance Efficiency | 6 Months |
| DMRE should present a plan on how it intends to fix the inefficiencies on the Samrad system. | Enhance Efficiency and transparency | 6 months |
| DMRE should present comprehensive plan of legislative e programme and timelines | Transparency | 3 months |

**Summary of recommendations with financial implications**

* Treasury to restore MTEF funding of the CGS in the short term, while securing R300 million baseline funding for the medium to long term in order to ensure that the entity is able to meet its mandate which is long term in nature and scope including the funding model that accommodate the National Key Point designation of the entity, in order to ensure compliance. a

**11. APPRECIATION**

The Committee would like to thank the Minister of Mineral Resources and Energy, Mr S.G Mantashe and the staff of the Department, as well as the Board Members and Management of all the Entities for their cooperation and transparency during this process.

The Chairperson wishes to thank all Members of the Committee for their active participation during the process of engagement and deliberations and their constructive recommendations reflected in this report.

The Committee also wishes to thank its support staff, in particular the Committee Secretaries, Ms A Boss, Mr A Kotze, the Content Advisor, Mr N Kweyama, the Researcher, Mr S Maboda, the Committee Assistant, Ms V Makubalo and the Executive Secretary to the Chairperson, Ms N Baleni, for their professional support and conscientious commitment and dedication to their work.

Report to be considered.